Amendments to the Drawings:

Replacement drawings are supplied herewith for Figures 1, 5, 6 and 11. The replacement sheets, which includes 1, 5, 6 and 11, replace the original sheets, including Figs. 1, 5, 6 and 11, respectively. There are no substantive changes in the replacement sheets. The replacement sheets are provided merely to provide clarification for any items which were hard to discern in the originals.

Attachments: Four replacement sheets.

REMARKS

Applicants appreciate the Examiner's attention to the above referenced application. Reconsideration of the application is respectfully requested. Claims 1-34 were rejected. Claims 2,-3 and 19 have been cancelled. Claims 1, 4-7, 9, 11, 14-15, and 20-32 have been amended. Claims 1, 4-18, and 20-34 are now pending, of which claims 1, 9, 15, 20, 26 and 31 are independent.

§ 101 Rejection of the Claims

Claims 1-19 and 31-34 are rejected under 35 U.S.C. 101 because "the claimed invention is directed to non-statutory subject matter. Claims 1-8 and 31-34 are rejected because the limitation of "client module", "server module" and "online client" seem directed to a data structure or computer program that is not embodied in a computer readable medium. Data structures and computer program that is not claimed as embodied in a computer readable medium are considered to descriptive material and are non-statutory (see MPEP 2106.01)." Applicants respectfully traverse this rejection, which should be withdrawn for at least the reasons set forth herein.

Amendments to Claims 1, 9, 15 and 31 make this rejection moot.

Claim 1 is directed to a computing system including a first and second computing device (which may be the same device). The computing devices are configured to execute the server and client modules. Thus, Claim 1 is directed to one or more specific computing machines. Further a useful result and transformation or state change occurs when the learning history is uploaded to the second computing device. Thus, this claim is believed statutory.

Claim 9 recites a computer implemented method and that the various steps are performed by a computing device. Thus, the method is not directed toward a mental step, or mere algorithm. Further, a useful result (and transformation or state change) occurs with the uploading of the learning history to the second device. Thus, this claim is believed statutory.

Claim 15 recites a computer implemented method. Thus, the method is not directed toward a mental step, or mere algorithm. Further, a useful result (and transformation or state

change) occurs with the uploading of the learning history to a server computing device. Thus, this claim is believed statutory.

Claim 31 is a language training system comprising a client computing device configured to execute an online client, and a server computing device executing a server module. Further, a useful result (and transformation or state change) occurs with the uploading of the learning history to the server computing device. Thus, this claim is believed statutory.

Claims 9-14, 15-19 are rejected under 35 U.S.C 101 because "the claimed method steps fail to provide sufficient tie with another statutory subject matter. In order to be considered patent eligible under 35 USC 101, a claimed process must contain a sufficient tie to a machine, article of manufacture or a composition of matter. In re Comiskey, 84 USPQ2d 1670 (Fed. Cir. 2007). In this case, the claimed invention does not have a sufficient tie to any machine, article of manufacture or a composition of matter." Applicants respectfully traverse this rejection, which should be withdrawn for at least the reasons set forth herein.

Claims 9 and 15 are amended, as discussed above to recite structure of computing devices, as well as to provide a tangible result as a state change or transformation, via the uploading of data to a second device. Thus, this claim is believed statutory.

§102 Rejection of the Claims

Claims 9 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada US 2002/0160341.

Claims 15-18, 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Shpiro US 2002/0086269.

Applicants respectfully traverse these rejections, which should be withdrawn for at least the reasons set forth below, as discussed in the section for § 103 rejections.

§103 Rejection of the Claims

Claims 1-8, 19, 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shpiro US 2002/0086269, in view of Yamada US 2002/0160341.

Claims 6 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shpiro US 2002/0086269, in view of Yamada US 2002/0160341 and in view of George US 5,978,648.

Claims 10-14 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada US 2002/0160341 in view of Shpiro US 2002/0086269.

Applicants respectfully traverse these rejections, which should be withdrawn for at least the reasons set forth herein.

The Examiner admit that The Shpiro reference fails to provide a teaching of wherein the feedback form the comparison of the recitation of the sentence with benchmark audio is uploaded to provide a learning history of the student. However, the Examiner asserts that the Yamada reference provides a teaching of wherein the feedback form the comparison of the recitation of the sentence with benchmark audio is uploaded to provide a learning history of the student (see paragraph 86).

Yamada (at Para. [0086]) does suggest that a learning history is saved. However, Yamada provides only a general rating of the pronunciation for each sentence, and a rating for the pronunciation of each word and phoneme. Thus, a learning history saved by Yamada would only contain a rating of the pronunciation.

In contrast, Applicants' claims require that the learning history is uploaded to a second computing device (server module) and comprises "*a status of the oral language assignment, feedback and grading that results from the evaluation of the oral language assignment by the client module.*" Neither Yamada nor Shpiro teach or suggest a learning history with the recited elements for assignments, grading and evaluation. Yamada merely provide ranking for individual sentences, words and phonemes.

Further, the other cited reference, George, does not teach or suggest a computer assisted oral language system. Nor do George teach or suggest a learning history with feedback and grading. At Col. 11, lines 32-46, George do suggest that a student can put together a portfolio of his/her best work to illustrate "student learning and achievement history from kindergarten through twelfth grade." However, a self-selected portfolio of best work is not the same as an evaluation and status of all oral language assignments with feedback, grading and status.

As for Claim 4, the Examiner asserts that Shpiro teach customizing oral language assignments for the student based on the student's weaknesses. Claim 4 requites that the teacher can "*customize oral language assignments for the student based on the student's weaknesses, wherein the weaknesses are to be derived from the learning history for the student.*" Shpiro merely suggest that the teacher may interact with the management system to administer tests, exercises, and direct the user. Shpiro does not teach or suggest that based on the learning history that the teacher may customize assignments for students.

Thus, the Examiner fails to present *prima facie* evidence of obviousness for all of the claims, and the aforementioned rejections should be withdrawn.

CONCLUSION

Applicants respectfully request reconsideration in view of the remarks and amendments set forth above. If the Examiner has any questions, the Examiner is encouraged to contact the undersigned at **703-633-6845**. Please charge any shortage of fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-0221 and please credit any excess fees to such account.

Respectfully submitted,

Dated: 26 Oct. 2009   / Joni D. Stutman /
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